

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

Filed: March 6, 2024

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DAVID D. GREER,	*	UNPUBLISHED
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Petitioner,	*	No. 18-1953V
	*	
v.	*	Special Master Dorsey
	*	
SECRETARY OF HEALTH	*	Attorneys' Fees and Costs.
AND HUMAN SERVICES,	*	
	*	
Respondent.	*	
	*	

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Richard H. Moeller, Moore, Heffernan, et al., Sioux City, IA, for Petitioner.
Mitchell Jones, U.S. Department of Justice, Washington, DC, for Respondent.

DECISION AWARDING ATTORNEYS' FEES AND COSTS¹

On December 21, 2018, David D. Greer ("Petitioner") filed a petition in the National Vaccine Injury Program² alleging he suffered nerve palsy as a result of an influenza ("flu") vaccine administered on November 11, 2015, and brachial plexopathy as a result of a pneumococcal conjugate ("Pprevnar") vaccine administered on February 7, 2017. Petition at 1 (ECF No. 1). On May 15, 2020, Petitioner filed an amended petition limiting his claim to only brachial plexopathy as a result of the Pprevnar vaccine administered on February 7, 2017.

¹ Because this Decision contains a reasoned explanation for the action in this case, the undersigned is required to post it on the United States Court of Federal Claims' website and/or at <https://www.govinfo.gov/app/collection/uscourts/national/cofc> in accordance with the E-Government Act of 2002. 44 U.S.C. § 3501 note (2018) (Federal Management and Promotion of Electronic Government Services). **This means the Decision will be available to anyone with access to the Internet.** In accordance with Vaccine Rule 18(b), Petitioner has 14 days to identify and move to redact medical or other information, the disclosure of which would constitute an unwarranted invasion of privacy. If, upon review, the undersigned agrees that the identified material fits within this definition, the undersigned will redact such material from public access.

² The National Vaccine Injury Compensation Program is set forth in Part 2 of the National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755, codified as amended, 42 U.S.C. §§ 300aa-10 to -34 (2018) ("Vaccine Act" or "the Act"). All citations in this Decision to individual sections of the Vaccine Act are to 42 U.S.C.A. § 300aa.

Amended Petition at ¶ 1 (ECF No. 32). On June 20, 2023, the undersigned issued a Decision Based on Stipulation. Decision Based on Stipulation dated June 20, 2023 (ECF No. 99).

On June 26, 2023, Petitioner filed a motion for attorneys' fees and costs. Petitioner's Motion for Attorneys' Fees ("Pet. Mot."), filed June 26, 2023 (ECF No. 101). Petitioner requests compensation in the amount of \$73,421.57, representing \$62,395.90 in attorneys' fees and \$11,025.67 in costs. *Id.* at 1. Pursuant to General Order No. 9, Petitioner warrants that he has not personally incurred any costs in pursuit of his claim for compensation. *Id.*; Pet. Exhibit ("Ex.") 50. Respondent filed his response on June 26, 2023, stating he "is satisfied the statutory requirements for an award of attorneys' fees and costs are met in this case." Respondent's Response to Pet. Mot. ("Resp. Response"), filed June 26, 2023, at 2 (ECF No. 102). Petitioner filed a reply on June 26, 2023, agreeing with Respondent and requesting the court to proceed with a decision on the matter. Pet. Reply to Resp. Response, filed June 26, 2023 (ECF No. 103). The matter is now ripe for disposition.

Petitioner requests the following hourly rates for the work of his counsel: for Mr. Richard H. Moeller, \$285.00 per hour for work performed in 2018, \$300.00 per hour for work performed in 2019, \$341.00 per hour for work performed in 2020, \$363.00 per hour for work performed in 2021, \$379.00 per hour for work performed in 2022, and \$408.00 per hour for work performed in 2023; for Ms. Nikki K. Nobbe, \$190.00 per hour for work performed in 2018, \$200.00 per hour for work performed in 2019, and \$242.00 per hour for work performed in 2020; for Ms. Coyreen R. Weidner, \$220.00 per hour for work performed in 2021, \$274.00 per hour for work performed in 2022, and \$313.00 per hour for work performed in 2023; and for Ms. Kaitlin T. Boettcher, \$220.00 per hour for work performed in 2021. Petitioner also requests rates between \$75.00 and \$137.00 per hour for work of his counsel's paralegals from 2018 to 2023.

The undersigned finds the rates are consistent with what counsel have previously been awarded for their Vaccine Program work, and finds them to be reasonable herein. The undersigned has reviewed the submitted billing entries and finds the total number of hours billed to be reasonable and will award them in full. Lastly, the undersigned has reviewed the requested costs and finds them to be reasonable and supported with appropriate documentation. Accordingly, the full amount of costs shall be awarded.

Therefore, the undersigned finds no cause to reduce the requested hours or rates, or the requested costs.

The Vaccine Act permits an award of reasonable attorneys' fees and costs. § 15(e). Based on the reasonableness of Petitioner's request, the undersigned **GRANTS** Petitioner's motion for attorneys' fees and costs.

Accordingly, the undersigned awards:

A lump sum in the amount of \$73,421.57, representing reimbursement for reasonable attorneys' fees and costs, in the form of a check payable jointly to Petitioner and Petitioner's counsel of record, Mr. Richard H. Moeller.

In the absence of a motion for review filed pursuant to RCFC Appendix B, the Clerk of Court **SHALL ENTER JUDGMENT** in accordance with this Decision.³

IT IS SO ORDERED.

/s/ Nora Beth Dorsey

Nora Beth Dorsey
Special Master

³ Pursuant to Vaccine Rule 11(a), entry of judgment is expedited by the parties' joint filing of notice renouncing the right to seek review.